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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,637	06/07/2002	Hachiro Seno	TAIYO50.001APC	5195
20995	7590	12/14/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			THANH, LOAN H	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			3763	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/018,637	<b>Applicant(s)</b> SENO, HACHIRO	
	<b>Examiner</b> LoAn H. Thanh	<b>Art Unit</b> 3763	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-7,10,13-15,17 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10,13-15,17,21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4-7,9,15, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yarger ( U.S. Patent No. 5,360,414).

Yarger discloses catheter having a tip end portion and a projection portion wherein the tip end portion comprises a plurality of side holes (28a-d) and having a groove 32,26 corresponding to the row for draining. Yarger discloses the width of the grooves to be between 0.1 mm to 1.0 mm to prevent significant occlusion of the grooves by debris or living tissue during drainage of a body cavity , viscous or wound. Yarger specifically discloses the through hole rows/ groove 26, 32 to be more narrow than the through holes ( 28) in order to provide fluid flow and prevent occlusion of grooves. See figures 1-10. See bridging paragraph starting on col. 2-3. col. 2, lines 30-36, col. 4 lines 64-col. 8, lines 57. Thus, as reasoned above, Yarger discloses the invention as substantially claimed. However, Yarger is silent to the specific depth of the grooves being 0.8 mm to 1.0 mm or the bottom surface of the single-pipe tube is 0.45 mm to 0.5 mm. Yarger does disclose that modifications and variations of the invention is well within the scope of the one of ordinary skill in the art. Thus, it would have been obvious

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to one of ordinary skill in the art to modify the depth of the groove as claimed as a mere design choice lacking any criticality of size as being merely preferable for the intended flow passage for draining the area where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art.

Claims 3,10,13,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yarger ( U.S. Patent No. 5,360,414) in view of Hideki et al. (JP 08-266616).

Yarger discloses the invention as substantially claimed. See above. However Yarger does not disclose a cuff for securement to the body. Hideki et al. disclose a catheter having a tip end portion and a projection portion wherein the tip end portion comprises a plurality of side holes and having a groove corresponding to the row for draining in the analogous art. Hideki et al. further disclose cuffs as elements 6-7 for retention of the device. See page 3 col. 4 of the translation and figures 1-2. It would have been obvious to one of ordinary skill in the art to modify the drainage catheter of Yarger with a cuff as taught by Hikedet et al. in order to provide securement and immobilization of the catheter as necessary for an ambulatory patient.

### ***Response to Arguments***

Applicant's arguments filed 09/19/05 have been fully considered but they are not persuasive. The Examiner has provided a new rejection in response to applicant's amendment.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LoAn H. Thanh whose telephone number is (571) 272-4966. The examiner can normally be reached on Mon. - Fri. (First Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LoAn H. Thanh  
Primary Examiner  
Art Unit 3763